

BERNALILLO COUNTY

BOARD OF COUNTY COMMISSIONERS

ADMINISTRATIVE RESOLUTION NO. _____

**COUNTY POLICY ON THE ACCEPTANCE OF STATE OF NEW MEXICO CAPITAL
OUTLAY FOR USE BY NON-GOVERNMENTAL ENTITIES**

WHEREAS, The New Mexico State Legislature appropriates capital outlay funds to various non-governmental entities, such as not-for-profit or non-profit agencies; and

WHEREAS, The State of New Mexico funds capital outlay projects with Severance Tax Bonds, resulting in increased regulations and responsibilities for the County to comply with State-imposed conditions in regards to contracts, anti-donation issues, contract monitoring, accounting and reporting requirements; and

WHEREAS, The State of New Mexico requires the local government to own all property, equipment, or vehicles and lease to any non-governmental entity the property, equipment, or vehicles purchased with capital outlay funds in a manner that meets the value of the capital outlay appropriated and does not violate the anti-donation clause as interpreted by the State Attorney General's Office; and

WHEREAS, The Attorney General's Office and the State Department of Finance require all conditions set by both agencies to be met prior to executing grant agreements and starting the capital outlay purchasing and/or project implementation, resulting in average time periods of three (3) months to over one (1) year to satisfactorily meet all conditions and begin the process of expending the capital outlay funds; and

WHEREAS, the increased regulations to expend capital outlay funds have greatly burdened the County with administrative and staff costs required to administer the process which are not eligible for reimbursement using capital outlay funding; and

1 **WHEREAS**, The State of New Mexico requires the County to budget for, and fund all
2 capital outlay projects “up front,” after which the County will be reimbursed by the State of New
3 Mexico if the State approves the request for payment; and

4 **WHEREAS**, The State of New Mexico grants capital outlay to the County and holds the
5 County responsible for meeting all requirements throughout the life cycle of the grant, and
6 should requirements not be met, the State will not reimburse the County; and

7 **WHEREAS**, “up front” funding and assuring regulatory compliance of third-party non-
8 government entities create significant risks to the County’s fund balance; and

9 **WHEREAS**, any use of County funds for “up-front” funding of non-governmental
10 agencies’ capital outlay requests; the purchasing of additional land or buildings for exclusive use
11 by non-governmental agencies; the purchasing of information technology equipment or vehicles
12 that depreciate to the point of obsolescence by the County once the lease term is completed;
13 should be reviewed for its compliance with the County’s Strategic Plan, and evaluated for project
14 viability, risk to County funds, and potential recurring costs; and

15 **NOW, THEREFORE**, be it resolved by the Board of County Commissioners, the
16 governing body of the County of Bernalillo, that beginning with the 2017 State Legislative
17 Session, acceptance of State of New Mexico Capital Outlay funds on behalf of non-
18 governmental entities shall require approval of the Bernalillo County Board of Commissioners
19 prior to submission to any member of the State Legislature, and that any project presented by
20 non-governmental entities shall be reviewed for its fiscal impact to the County’s current and
21 recurring finances.

FURTHER, be it resolved by the Board of County Commissioners, beginning with the 2017 Legislative Session, to suspend acceptance of State of New Mexico Capital Outlay funds, on behalf of a non-governmental entity, for:

1. Purchase of vehicles and information technology;
2. Any capital outlay expenditure less than \$50,000.

ADDITIONALLY, be it resolved by the Board of County Commissioners, to approve the collection of a three percent (3%) administrative fee based on the amount of capital outlay, from any non-governmental entity with whom the County enters into an agreement to expend State of New Mexico Capital Outlay funds beginning with the 2017 State Legislative Session appropriations. The administrative fee and/or the expenditure cap of \$50,000 may be waived or modified by majority vote of the Bernalillo County Board of Commissioners. In addition, the capital outlay expenditure cap may be waived during the legislative session by authorization of the County Manager.

DONE, this 10th day of May, 2016

BOARD OF COUNTY COMMISSIONERS

Art De La Cruz, Chair

APPROVED AS TO FORM

Wayne A. Johnson, Vice Chair

W. Ken Martinez

Debbie O'Malley, Member

ATTEST:

Maggie Hart Stebbins, Member

Maggie Toulouse Oliver, County Clerk
County Clerk

Lonnie C. Talbert, Member